

CUSTOMER NO.: 38107

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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| In re application of: |) | Examiner: N. LAVERT |
| J. RUSSELL, et al. |) | |
| Serial No.: 10/597,079 |) | Art Unit: 4123 |
| Filed: July 11, 2006 |) | Confirmation: 6955 |
| For: ADAPTIVE |) | |
| PHYSIOLOGICAL |) | |
| MONITORING SYSTEM |) | |
| AND METHODS OF USING |) | |
| SAME |) | |
| Date of Advisory Action: |) | |
| November 5, 2008 |) | |
| Attorney Docket No.: |) | Cleveland, OH 44114 |
| PHUS040020US2 / PKRZ 2 01268 |) | November 20, 2008 |

NOTICE OF APPEAL

Commissioner For Patents
P.O. Box 1450
Alexandria, VA 22313-1450

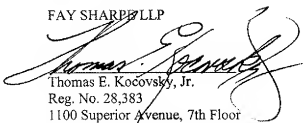
Dear Sir:

The applicants hereby appeal from the Final Rejection of August 22, 2008 of claims 1-13, 15, 17, 24-30, and 34. Claims 18-23 and 31-33 are withdrawn.

The Notice of Appeal fee is submitted herewith.

Respectfully submitted,

FAY SHARPE LLP


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CERTIFICATE OF ELECTRONIC TRANSMISSION

I certify that this **NOTICE OF APPEAL** and accompanying documents in connection with U.S. Serial No. 10/597,079 are being filed on the date indicated below by electronic transmission with the United States Patent and Trademark Office via the electronic filing system (EFS-Web).

December 18, 2008

Date

Patricia A. Heim

Patricia A. Heim